

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

WERNER ENTERPRISES, INC.,

Defendant;

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Case No. 8:18-cv-00329

UNOPPOSED MOTION TO INTERVENE

Andrew Deuschle, by and through his undersigned attorneys, move this Court for an order permitting him to intervene as a party plaintiff in the above-captioned action, and in support of this motion would show:

1. Intervening Petitioner Andrew Deuschle is the charging party in Equal Opportunity Commission (“EEOC”) Charge No. 450-2015-04143, and is the individual damaged as a result of the Defendant’s unlawful conduct.

2. The EEOC has brought this action for injunctive and other relief against Defendant under Title I of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*

3. Under Fed. R. Civ. P. 24(a)(1), “[u]pon timely application anyone shall be permitted to intervene in an action ... when a statute of the United States confers an unconditional right to intervene.” The statutory language of Title VII, 42 U.S.C. § 2000e-5(f)(1), grants the charging employee an unconditional right to intervene in cases brought by the EEOC, and has been incorporated into the Americans with Disabilities Act. 42 U.S.C. § 12117(a).

4. Additionally, Petitioner has a right to intervene in this action because he has interests in the subject of the action, and because disposition of this case without his involvement

may as a practical matter impair or impede his ability to protect his interests. Fed. R. Civ. P. 24(a)(2).

5. Alternatively, Petitioner maintains that he should be allowed to intervene pursuant to Fed. R. Civ. P. 24(b)(2), which governs the intervention of parties by permission, as Petitioner's claims and those in this action have common issues of law and fact.

6. Allowing Petitioner to intervene will not in any manner delay the hearing or disposition of this matter nor raise any jurisdictional or venue issues.

7. A copy of Petitioners' proposed complaint in intervention is attached to this motion as Exhibit A.

8. The EEOC does not oppose this motion. Werner does not object to Plaintiff's request for leave to file a complaint in intervention. However, Werner reserves all rights to respond to any allegations in the Complaint in Intervention and to assert any affirmative defenses that may be applicable to Plaintiff's claims at the appropriate time.

WHEREFORE, Petitioner Andrew Deuschle moves the Court to:

- A. Allow him to intervene in this action as a matter of right, or, in the alternative, exercise the Court's discretion to allow him permissive intervention;
- B. Order that the attached Complaint in Intervention be filed on his behalf; and
- C. Permit Andrew Deuschle to participate fully in all phases of this action, and to recover all relief to which he may be entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. East', is written over a horizontal line.

BRIAN EAST

Texas State Bar No. 06360800

Pro Hac Vice admission to be sought

LIA S. DAVIS

Texas State Bar No. 24071411

Pro Hac Vice admission to be sought

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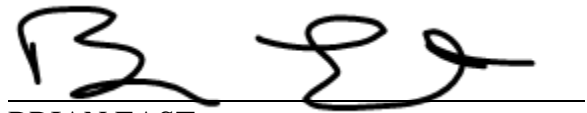
Email: Dianne@drne.org

ATTORNEYS FOR
PLAINTIFF INTERVENOR

CERTIFICATE OF CONSULTATION

I hereby certify that on 23rd day of August, 2018, counsel for Plaintiff Intervenor consulted with counsel for Defendant Werner Enterprises, and Werner does not object to Plaintiff's request for leave to file a complaint in intervention. However, Werner reserves all rights to respond to any allegations in the Complaint in Intervention and to assert any affirmative defenses that may be applicable to Plaintiff's claims at the appropriate time.

I hereby certify that on 24th day of August, 2018, counsel for Plaintiff Intervenor consulted with counsel for Plaintiff Equal Employment Opportunity Commission, and Plaintiff does not object to this motion.


BRIAN EAST

CERTIFICATE OF SERVICE

I hereby certify that on 24th day of August, 2018, a true and correct copy of the foregoing document was electronically filed using the Court's CM/ECF filing system, thus providing notice of electronic filing to the following:

Emily Keatley
Equal Employment Opportunity Commission
Kansas City Area Office
400 State Avenue, Ste. 905
Kansas City, KS 66101

I hereby certify that on 24th day of August, 2018, a true and correct copy of the foregoing document was sent to Defendant's counsel by email.

Elizabeth Culhane, eculhane@FraserStryker.com

A handwritten signature in black ink, appearing to read "B. East", written over a horizontal line.

BRIAN EAST